

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

**ENVIRONMENTAL PROTECTION DIVISION
OF THE NEW MEXICO ENVIRONMENT DEPARTMENT,
Complainant,**

NO. AQB DCP-0227-1401 (NOV)

**DCP MIDSTREAM, LP
Respondent.**

SETTLEMENT AGREEMENT AND STIPULATED FINAL COMPLIANCE ORDER

This Settlement Agreement and Stipulated Final Compliance Order (“Final Order”) is entered into between the Environmental Protection Division (“Division”) of the New Mexico Environment Department (the “Department”) and the Respondent, DCP Midstream, LP (“Respondent”) (collectively, the “Parties”) to resolve alleged statutory, regulatory, and permit violations by the Respondent. The Department alleges violations of the New Mexico Air Quality Control Act (“AQCA”), NMSA 1978, Sections 74-2-1 to 74-2-17; the Air Quality Control Regulations (“AQCR”), 20.2. NMAC (“Regulations”), and Air Quality Permit Number P121-R2 (“Permit”).

I. BACKGROUND

A. PARTIES

1. The Department is an agency of the executive branch of the State of New Mexico, created pursuant to NMSA 1978, § 9-7A-4. The Division is an organizational unit of the Department. The Secretary of the Department has delegated to the Director of the Division the authority to seek administrative enforcement of the AQCA and the AQCR, including assessing

civil penalties for violations thereof. NMSA 1978, § 74-2-12. The Air Quality Bureau (“Bureau”) is an organizational unit of the Division.

2. Respondent is a limited partnership doing business in New Mexico at the Pecos Diamond Gas Plant (“Facility”), located in Eddy County, New Mexico. The function of the Facility is to receive field natural gas, process the gas by removing water, carbon dioxide, and natural gas liquids, compress the gas and pump the natural gas liquids for distribution through sales pipelines.

B. HISTORY AND ALLEGED VIOLATIONS

3. Permit Facility Specific Requirement A106.A provides in relevant part, “The following Section lists the emission units, and their allowable emission limits. ...” Table 106.A of the Permit sets forth the allowable emissions of NO_x from Unit No. 1 as 14.90 pounds per hour.

4. In a semi-annual monitoring report submitted on June 3, 2014, Respondent reported that Unit No. 1 failed its February 17, 2014 emissions test. The average NO_x emission during the test was measured at 26.58 pounds per hour, which is in excess of the 14.90 pounds per hour allowed by the Permit.

5. 20.2.7.110.A NMAC provides in relevant part, “The owner or operator of a source having an excess emission shall report the following information to the department ... (1) Initial report: the owner or operator shall file an initial report, no later than the end of the next regular business day after the time of discovery of an excess emission that includes all available information”

6. In a semi-annual monitoring report submitted on June 3, 2014, Respondent reported that Unit No. 1 failed its February 17, 2014 emissions test. The average NO_x emission during the test was measured at 26.58 pounds per hour, which is in excess of the 14.90 pounds per hour

allowed by the Permit. Respondent did not file an initial excess emission report as required by 20.2.7.110.A(1) NMAC.

7. 20.2.7.110.A NMAC provides in relevant part, “The owner or operator of a source having an excess emission shall report the following information to the department ... (2) Final report: the owner or operator shall file a final report that contains specific and detailed information ... no later than ten (10) days after the end of the excess emission.”

8. In a semi-annual monitoring report submitted on June 3, 2014, Respondent reported that Unit No. 1 failed its February 17, 2014 emissions test. The average NO_x emission during the test was measured at 26.58 pounds per hour, which is in excess of the 14.90 pounds per hour allowed by the Permit. Respondent did not file a final excess emission report as required by 20.2.7.110.A(2) NMAC.

9. On December 11, 2014, the Bureau issued to Respondent Notice of Violation DCP-0227-1401 (“NOV”), alleging violations of the AQCA, the AQCR, and the Permit. The alleged violations consisted of: 1) the failure to limit NO_x emissions from Unit No. 1 to the allowable limit, which is a violation of Permit Facility Specific Requirement A106.A; 2) the failure to file an initial excess emission report no later than the end of the next regular business day after the time of discovery, which is a violation of 20.2.7.110.A(1) NMAC; and 3) the failure to file a final excess emission report no later than ten (10) days after the end of the excess emission, which is a violation of 20.2.7.110.A(2) NMAC.

10. The NOV included a Corrective Action Verification (“CAV”) requiring Respondent to submit to the Bureau measures taken to ensure future compliance with the permit conditions.

11. On December 11, 2014, the Bureau received the CAV from Respondent. The CAV was determined to be satisfactory by the Bureau on December 22, 2014.

12. The Parties have engaged in settlement discussions to resolve the NOV without further proceedings.

II. COMPROMISE AND SETTLEMENT

A. GENERAL

13. Respondent does not admit any of the allegations in the NOV. To avoid further legal proceedings, the Division and Respondent agree to the terms and conditions in this Final Order to resolve the alleged violations in the NOV.

14. The Parties admit jurisdiction and consent to the relief specified herein.

B. CIVIL PENALTY

15. In compromise and settlement of the alleged violations set forth in the NOV and upon consideration of the seriousness of the alleged violations and Respondent's good faith efforts to comply, the Parties agree that Respondent shall pay a civil penalty of \$7,200.00 to the State of New Mexico within 30 calendar days after the effective date of this Final Order.

16. Payment shall be made to the *State of New Mexico General Fund* by certified or corporate check and sent to the following address:

New Mexico Environment Department
Air Quality Bureau
c/o Compliance and Enforcement Manager
525 Camino de los Marquez, Suite 1
Santa Fe, New Mexico 87505

17. If Respondent fails to make timely and complete payment of the civil penalty, Respondent shall pay a stipulated penalty of \$250.00 per day for each day a payment is not timely or complete. Respondent shall not contest or dispute in any way the stipulated penalty of \$250.00 per day in the event that the Department brings an action against Respondent for the failure to make timely or complete payment.

III. OTHER TERMS AND CONDITIONS

A. RESERVATION OF RIGHTS AND DEFENSES

18. This Final Order shall not be construed to prohibit or limit in any way the Department from requiring Respondent to comply with any applicable state or federal requirement not resolved herein. This Final Order shall not be construed to prohibit or limit in any way the Department from seeking any relief authorized by the AQCA for violation of any state or federal requirement applicable to Respondent not resolved herein. This Final Order shall not be construed to prohibit or limit in any way Respondent from raising any defense to a Department action seeking such relief.

B. MUTUAL RELEASE

19. The Parties mutually release each other from all claims that each party raised or could have raised against the other regarding the facts and violations alleged in the NOV. Such release applies only to civil liability.

C. WAIVER OF STATE LIABILITY

20. Respondent shall assume all costs and liabilities incurred in performing all obligations under this Final Order. The Department, on its own behalf and on behalf of the State of New Mexico, does not assume any liability for Respondent's performance of any obligation under this Final Order.

D. EFFECTIVE DATE AND TERMINATION DATES

21. This Final Order shall become effective on the date it has been signed by the Department Secretary.

22. Except as otherwise provided in this Paragraph, the terms of this Final Order shall terminate when Respondent has fulfilled the requirements of this Final Order. The reservations of

rights and defenses and the mutual release in Paragraphs 18 and 19 shall survive the execution and performance of this Final Order, and shall remain in full force and effect as an agreement between the Parties.

E. INTEGRATION

23. This Final Order merges all prior written and oral communications between the Parties concerning the subject matter of this Final Order, contains the entire agreement between the Parties, and shall not be modified without the express written agreement of the Parties.

F. BINDING EFFECT

24. This Final Order shall be binding on the Parties and their officers, directors, employees, agents, subsidiaries, successors, assigns, trustees, or receivers.

G. AUTHORITY OF SIGNATORIES

25. The persons executing this Final Order on behalf of Respondent and the Division, respectively, represent that he or she has the authority to execute this Final Order on behalf of Respondent and the Division.

H. SIGNATURE AND COUNTERPARTS

26. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

ENVIRONMENTAL PROTECTION DIVISION
NEW MEXICO ENVIRONMENT DEPARTMENT

By: 
MICHAEL VONDERHEIDE
DIRECTOR

Date: 10/27/15

DCP MIDSTREAM, LP

By: Bryan Graham
Print Name: BRYAN GRAHAM
Print Title: GENERAL MANAGER

Date: 13 OCT 2015

STIPULATED FINAL COMPLIANCE ORDER

This Settlement Agreement and Stipulated Final Compliance Order, agreed to by the Division and Respondent DCP Midstream, LP, is hereby incorporated herein and **APPROVED AS A FINAL COMPLIANCE ORDER** issued pursuant to NMSA 1978, Section 74-2-12.

for *Butch Longate*
RYAN FLYNN
SECRETARY
ENVIRONMENT DEPARTMENT

Date: *11/9/15*

APPROVED AS TO FORM:

[Signature]
JEFFREY M. KENDALL
General Counsel

[Signature]
LOUIS W. ROSE
Attorney for DCP Midstream